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June 7, 2017

VIA HAND DELIVERY AND ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street S.W.
Washington, DC 20554

Re: WC Docket No. 09-197; WT Docket No. 10-208 *In the matter of
Petition of Leech Lake Telecommunications Company, LLC for Designation as an Eligible
Telecommunications Carrier pursuant to Section 214(e)(6) of the Communications Act of 1934,
as Amended*
Universal Service Reform – Mobility Fund

Dear Ms. Dortch:

Enclosed for filing please find the following:

1. Amendment To Petition of Leech Lake Telecommunications Company, LLC for Designation As An Eligible Telecommunications Carrier For Lifeline Service And Request for Expeditious Resolution;
2. Declaration of Sally Fineday with Exhibits 1-15 attached. Per section 1.731 of the Commission's rules, a portion of Exhibit 14 contains financial information that has been marked "CONFIDENTIAL NOT FOR PUBLIC INSPECTION." A redacted copy will be filed in ECFS and an un-redacted copy will be filed with the Commission in a sealed envelope; and
3. Declaration of Judith A. Endejan with Exhibits A-B attached.



G A R V E Y S C H U B E R T B A R E R

Marlene H. Dortch
Secretary
June 7, 2017
Page 2

Please contact Judith A. Endejan at jendejan@gsblaw.com or (206) 816-1351 if you have any questions. Thank you.

Very truly yours,

GARVEY SCHUBERT BARER

By 
Judith A. Endejan

Enclosures

cc: Sally Fineday
The Minnesota Public Utility Commission

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC**

In the matter of

Petition of Leech Lake Telecommunications
Company, LLC for Designation as an Eligible
Telecommunications Carrier pursuant to
Section 214(e)(6) of the Communications Act
of 1934, as Amended

WC Docket No. 09-197

Universal Service Reform – Mobility Fund

WT Docket No. 10-208

**AMENDMENT TO PETITION OF LEECH LAKE TELECOMMUNICATIONS
COMPANY, LLC FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS
CARRIER FOR LIFELINE SERVICE AND REQUEST FOR EXPEDITIOUS
RESOLUTION**

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Company, LLC*

June 7, 2017

SUMMARY

Leech Lake Telecommunications Company, LLC (“LLTC”) a telecommunications service provider on the Leech Lake, Minnesota Reservation (“Reservation”), wholly owned by the Leech Lake Band of Ojibwe (“LLBO” or “Band”), respectfully submits this Amendment to its Petition (“Petition”) for Designation as an Eligible Telecommunications Carrier (“ETC”) pursuant to Section 214(e)(6) of the Communications Act of 1934, *as amended* (“Act”), for purposes of receiving federal universal service (“USF”) high cost and Lifeline support to provide service throughout its service area within the boundaries of the LLBO Reservation. The Leech Lake Telecommunications Company, LLC, Petition for Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e)(6) of the Telecommunications Act of 1996, WC Docket No. 09-197, WT Docket No. 10-208, was filed on December 5, 2013. LLTC has received no notification from the FCC as to the status of this Petition to date.

The LLTC continues to seek ETC status because it can further broadband deployment on its Reservation, a key Tribal and federal goal, and to best reach out and attract eligible Lifeline Tribal customers who are not receiving the benefit of the Lifeline program from current providers. Granting this Amended Petition expeditiously will best serve the Tribe and the overarching public interest, acknowledged repeatedly by the FCC, in bringing advanced telecommunication services to rural, remote areas, especially tribal lands.

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC**

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Company, LLC for Designation as an Eligible
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Section 214(e)(6) of the Communications Act
of 1934, as Amended

Universal Service Reform – Mobility Fund

WC Docket No. 09-197

WT Docket No. 10-208

**AMENDMENT TO PETITION OF LEECH LAKE TELECOMMUNICATIONS
COMPANY, LLC FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS
CARRIER FOR LIFELINE SERVICE AND REQUEST FOR EXPEDITIOUS
RESOLUTION**

Leech Lake Telecommunications Company, LLC (“LLTC”) a telecommunications service provider on the Leech Lake, Minnesota Reservation (“Reservation”), wholly owned by the Leech Lake Band of Ojibwe (“LLBO” or “Band”), respectfully submits this Amendment to its Petition (“Petition”) for Designation as an Eligible Telecommunications Carrier¹ (“ETC”) pursuant to Section 214(e)(6) of the Communications Act of 1934, *as amended* (“Act”), for purposes of receiving federal universal service (“USF”) high cost and Lifeline support to provide service throughout its service area within the boundaries of the LLBO Reservation. LLTC has received no notification from the FCC as to the status of this Petition to date.

¹ Leech Lake Telecommunications Company, LLC, Petition for Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e)(6) of the Telecommunications Act of 1996, WC Docket No. 09-197, WT Docket No. 10-208 (filed Dec. 5, 2013).

I. INTRODUCTION

LLTC filed its original Petition in order to participate in Auction 902 for Tribal Mobility Fund Phase I in 2014.² LLTC sought funds for facilities to establish a mobile wireless broadband network to all Reservation communities deemed unserved or underserved by the FCC. In 2014, as now, a well-recognized “digital divide” separates urban and rural dwellers with respect to sufficient internet access.³ Dissolving the “digital divide” has been the focus of many recent legislative and regulatory initiatives.⁴ In the Phase II Order,⁵ the FCC emphasized that it wanted to “advance our policy objective of extending broadband to unserved Tribal lands. We recognize the historic challenges of serving Tribal lands and the low deployment of broadband service on Tribal lands.” During LLTC’s participation in Auction 902, LLTC decided to continue efforts to deploy broadband internet access by switching to a fixed wireless technology.

The LLTC continues to seek ETC status because it can further broadband deployment on the Reservation, a key Tribal and federal goal, but that is not the only reason. If it is an ETC, the LLTC could best reach out and attract eligible Lifeline Tribal customers who are not receiving the benefit of the Lifeline program. According to a recent LLTC study, for CenturyLink, Inc. (the largest carrier serving Reservation counties) only .07% of its Lifeline subscribers were Tribal in 2016.⁶ This dismal statistic alarms the LLTC, because it shows a lack of interest on

² This was established by the *Connect America Fund et.al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (“*Transformation Order*”). Auction 902 was conducted on February 25, 2014, and awarded \$48.8 million to five winning bidders. The LLTC was not one of them.

³ See <https://www.usnews.com/news/articles/2016-06-09/technology-is-improving-so-why-is-rural-broadband-access-still-a-problem>

⁴ See, e.g., the March 17, 2017, hearing before the U.S. House of Representatives Committee on Energy and Commerce: “Broadband :Deploying America’s 21st Century Infrastructure.”

⁵ *In the Matter of Connect America Fund*, WC Docket Nos. 10-90,14-58,14-259, Report & Order and Further Notice of Proposed Rulemaking, (FCC 16-64) (Rel. May 26, 2016) (“Phase II Order”) ¶ 225.

⁶ Only six out of 8891 CenturyLink Lifeline subscribers received a Lifeline subsidy. See Declaration of Sally Fineday (“Fineday Decl.”), Ex. 2.

CenturyLink's part to reach out and attract eligible Tribal subscribers, effectively denying them basic affordable telecommunications service. This study revealed that all wireline service providers serving the Reservation have a declining number of Lifeline subscribers (both tribal and non-tribal). In contrast, virtual wireless companies have sought out Lifeline subscribers, but their service capabilities are limited to areas along major roadways in tribal lands (i.e., US Highway 2 and State Highway 371). While many subscribers may get a "free phone" from these providers, the phones may not work because there are few wireless networks crossing rural tribal lands, leading to no meaningful mobile cellular penetration.

Now that broadband services are included within the bucket of Lifeline-supported services,⁷ LLTC current and potential customers could benefit substantially from LLTC's ETC designation, which would enable customers to purchase all necessary services—but especially broadband—from LLTC. The \$34.25 Tribal Lifeline subsidy would make these services very affordable, or even free, to many LLTC low-income customers. The LLTC has the desire and ability to reach out to Tribal Lifeline customers, which other ETC's serving the Reservation lack.

The LLBO Reservation is located in some of the most rural, under-served areas of the United States. Market forces will not bring essential and advanced telecommunication services to the Reservation. LLTC will, but it needs help. The LLTC currently provides broadband and voice services to 160 customers on the LLBO Reservation. LLTC could provide these services to the vast majority of Band members if it could build out its facilities to all Reservation communities and if it could provide a federal Lifeline subsidy to its customers. In order to do this, the LLTC must be designated as an ETC. LLTC should receive the appropriate ETC designation from the FCC as soon as possible, particularly given its three-year wait.

⁷ See *In the Matter of Lifeline and Link Up Reform and Modernization*, FCC 16-38, (Rel. April 27, 2016) ("*Lifeline Reform Order*"). The FCC issued the *Lifeline Reform Order*, which included the provision of broadband within the bucket of services supported by the Lifeline program.

Granting this Amended Petition expeditiously will best serve the Tribe and the overarching public interest, acknowledged repeatedly by the FCC,⁸ in bringing advanced telecommunication services to rural, remote areas, especially tribal lands.

II. BACKGROUND/FACTUAL UPDATE

A. The Background and Operations of the LLTC.

The Leech Lake Reservation is located in parts of Cass, Hubbard, Beltrami and Itasca Counties in north-central Minnesota, approximately 235 miles north of Minneapolis/St. Paul and 100 miles south of the Canadian border. The Reservation covers approximately 1,300 square miles, with 300,000 acres of lakes, 120,000 acres of wetlands, and 260 miles of rivers. The Reservation has a population of 10,660, residing in isolated, small communities of 500 or less. The LLBO's administrative headquarters are in Cass Lake. Fifty-eight percent of the citizens in the Band live below the United States poverty level,⁹ and the Band has an unemployment rate of 10.7%.

The Leech Lake Tribal Utility Commission (LLTUC) was established in 2009 by the Band when it enacted Title 14: *Utility Service and Rights of Way Trespass* in the LLBO Code. This ordinance was revised substantially in 2016. Fineday Decl., Ex. 3. The Band owns 100% of the LLTC, which is a limited liability company granted a charter pursuant to the laws of the LLBO. The LLTC has a Certificate of Good Standing from the LLBO Tribal Council. Fineday Decl., Ex. 4. The LLTC has a current registration with the LLTUC, as required by Title 14. Fineday Decl., Ex. 5. The Tribal Council, by resolution, has endorsed the filing of this Amended Petition. Fineday Decl., Ex. 6.

⁸ Native American tribes have a role in ensuring that "all Americans, in all regions of the United States, have the opportunity to access telecommunications and information services." *In the Matter of Statement of Policy on Establishing A Government-to-Government Relationship with Indian Tribes*, 16 FCC Rcd. 4078 at *1 (F.C.C.2000).

⁹ American Community Survey 2007-2011.

The Band established the LLTC to implement a priority in its five-year Economic Development Strategies (2014-19) to develop infrastructure for telecommunications and broadband services. (Fineday Decl., Ex. 7). The social and economic benefits of broadband access for tribal members cannot be understated, because this will provide the means to greater educational, employment, commercial and health care opportunities, and better public safety services and government programs.

B. How LLTC Operates.

Since early 2015, the LLTC has provided telecommunications services, including wireless broadband service, in two communities, Cass Lake and Bena. Exhibit 8 (Fineday Decl.) shows the LLTC's current and planned network to serve the Reservation's communities. The two-base stations now in use distribute a point-to-point, multipoint, wireless transmission system using the IEEE 802.16 WiMax standard. This system is upgradable to LTE. Wireless broadband is deployed to homes and businesses in these service areas.

LLTC uses wireless spectrum licensed to the Band, a communications and switching core at the tower building in Cass Lake and two transmission towers to serve Cass Lake and Bena via microwave link.¹⁰ LLTC currently serves 160 customers who pay a flat fee of \$50 per month for voice and broadband services and a one-time \$60 fee for a WIFI home router and a cordless phone. If LLTC is designated as an ETC, LLTC customers who are eligible for Lifeline could receive the benefit of \$34.25 in federal support to cover almost 75% of the costs of LLTC's service. The LLTC Customer Application and Broadband Service Agreement describe its services (Fineday Decl., Ex. 1).

¹⁰ The Band holds two PCS Broadband Licenses, L000011259 and L000011260 in BTA 037 and BTA 054 respectively.

Exhibit 8 (Fineday Decl.) also shows that LLTC would like to expand to provide these services throughout the Reservation. The Band estimates that it will need \$1,805,059 for the new towers and associated equipment to provide fixed wireless broadband service across the whole Reservation (Fineday Decl., Ex. 13). Potential funding sources include the Rural Utilities Service of the United States Department of Agriculture, the State of Minnesota Taskforce on broadband, Universal Service Fund High Cost Support CAF Phase II, and the Tribal Mobility Fund Phase II.¹¹

LLTC will first deploy services using nine existing towers and facilities located in Band lands. LLTC will then construct six new towers on LLBO tribal lands over a three-year period. These towers are self-supporting and guyed towers with heights that vary from 250 feet to 500 feet. All towers will have a three-sector, 360-degree, point-to-multi-point data transmit and receive capability for up to five miles in line-of-sight conditions at speeds of 10/1 Mbps coupled with voice communications. This speed will increase to 25/3 MBPS when the service is upgraded to LTE. The LLTC network plans, and the current and planned locations of the towers are in Exhibit 8 (Fineday Decl.). The tower sites will use microwave backhaul to transport the voice and data traffic from each base station to the Cass Lake core.

C. No Other Provider Will Serve the Entire Reservation.

The Band concluded that the entire Reservation could best be served by a tribal telecommunications company – the LLTC – because it would understand the socioeconomic needs of the Band, which is woefully underserved at the current time. For instance, no broadband services, viable for Reservation communities who need home-based computers to be

¹¹ On March 7, 2017, this Commission instituted proceedings for the Mobility Fund Phase II¹¹ that will provide \$340 million for Tribal Mobility Fund Phase II. The LLTC would like to participate in that auction. However, the areas eligible for this support have not yet been identified by the Commission. *Connect America Fund et.al.*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket 10-90, WT Docket No. 10-208 (Rel. March 7, 2017)(“Phase II MF Order”).

able to operate on an affordable basis, are available in the Reservation communities of Mission, Noopiming (aka Cass River/Pennington), Prescott, Keko Lake, Sugar Point, Boy Lake and Oak Point. Where broadband might be available from commercial providers through fiber or DSL the service is cost-prohibitive, as 58% of Reservation households fall below the U.S. poverty level.

The telecommunications carriers that currently serve the Reservation are not providing expanded broadband on the Reservation.¹² The primary incumbent local exchange provider that serves the Reservation, Paul Bunyan Communications, has been resistant to providing services to the Reservation because of long-running issues regarding rights-of-way. The company and the LLBO are in the process of meeting to resolve these issues, but the LLTC does not anticipate that Paul Bunyan will be able to provide the broadband services needed on the LLBO Reservation.

The other carriers that serve the Reservation also will probably not provide needed broadband services to all areas of the Reservation. CenturyLink, Inc. serves a very small northern portion of the LLBO Reservation. In 2015, it received Connect America Fund (“CAF”) funds for broadband deployment there when the FCC awarded over \$1.5 billion to price cap carriers to support broadband deployment over a ten-year period. However, the vast majority of the Reservation is not served by a price cap carrier that received CAF Phase I funds. Only a small portion of the Reservation was accepted by CenturyLink for broadband deployment (Fineday Decl., Ex. 9). Exhibit 10 (Fineday Decl.) shows that some areas of the Reservation may be eligible for CAF Phase II support, but significant portions are not.¹³

¹² The Reservation covers parts of the service areas of

<u>ILEC Exchange</u>	<u>SAC #</u>	<u>Wire Center</u>	<u>CLLI</u>
Century Link	365142	Cass Lake	CSSLMNCL
Arvig TelCo	361350		
Johnson TelCo	361410		
Paul Bunyan Rural	361451		

¹³ <https://www.fcc.gov/reports-research/maps/caf-2-auction-preliminary-areas/>

In 2016, the FCC issued *Phase II Order* that will award \$215 million in annual support to carriers bidding to deploy broadband services where the incumbent price cap carriers declined the offer of support in 2015. This process has not concluded. However, at the current time, it appears that no single provider will be able to bring broadband to the entire Reservation – except for LLTC, which hopes to obtain federal CAF funding.

The LLBO Reservation, for the most part, will not receive broadband from the incumbent carriers that have traditionally served the Reservation, and the LLTC is best-suited to provide affordable broadband and critical telecommunications.

D. Current Providers are Not Providing Lifeline Service.

The LLTC researched the levels of Lifeline support received by the ETC carriers serving the Reservation. The LLTC quickly noticed two things: (1) The major wireline providers (CenturyLink and Paul Bunyan) have an extremely small number of Tribal Lifeline subscribers as compared to non-Tribal subscribers (Fineday Decl., Ex. 2); and (2) two mobile virtual network operators (“MVNOs”) (Blue Jay Wireless, LLC and Boomerang Wireless LLC) have a disproportionate number of Lifeline subscribers, in comparison with the wireline incumbent providers. *Id.*

These statistics lead to several logical conclusions. First, the wireline companies are doing very little to inform Tribal customers about Lifeline benefits. Second, the business model of the MVNOs appears to rest entirely on the Lifeline program.¹⁴ The MVNOs provide no infrastructure and operate as sheer resellers. Customer contact support for the MVNOs appears only through the internet. Only voice services are offered through the MVNOs—not broadband.

LLTC, if granted ETC status, would provide much more meaningful opportunities for Tribal members eligible for Lifeline. LLTC is best positioned to advise members of the Tribe

¹⁴ See <https://www.bluejaywireless.com/about/> ; <http://usafreecellphone.com/boomerang-wireless.htmlp>

about Lifeline because LLTC has a physical presence on the Reservation and is owned by the Tribe. As explained in Section IV.D, LLTC has many ways to reach out to tribal members to advise them of the benefits and objectives of Lifeline. Exhibit 11 (Fineday Decl.) is an example of how LLTC would communicate with tribal members. Finally, because LLTC can provide both voice and broadband services, its value to Lifeline to subscribers far exceeds those of other ETC Lifeline providers operating on the Reservation. LLTC needs the ETC designation to benefit Tribal members who are not being contacted by wireline carriers about Lifeline or, when contacted, are transient providers whose only *raison d'être* is to collect Lifeline subsidies.

**III. LLTC IS NOT SUBJECT TO THE JURISDICTION OF THE
MINNESOTA PUBLIC UTILITY COMMISSION;
THEREFORE THIS COMMISSION SHOULD APPROVE
THIS PETITION WITHIN SIX MONTHS**

The FCC in its *Twelfth Report and Order* first set out the procedure for a tribal carrier seeking ETC designation to serve tribal lands.¹⁵ Leech Lake followed that procedure and petitioned the FCC without seeking ETC status from the Minnesota Public Utilities Commission (“MPUC”).¹⁶ The FCC said in the *Twelfth Report and Order* that it will assert jurisdiction to make the ETC designation when the petitioning carrier is subject to Tribal authority and a significant Tribal interest is involved. These criteria are present here.

Prior to filing this Amended Petition, the LLTC wrote to the Minnesota Public Utilities Commission (“MPUC”) on December 11, 2015, requesting that this state commission defer to the FCC with respect to LLTC’s ETC petition. Declaration of Judith A. Endejan (“Endejan

¹⁵ *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Red 12208 (2000) (“*Twelfth Report and Order*”), ¶¶ 92-96.

¹⁶ The *Twelfth Report and Order* noted, “The state commission will have an opportunity during the notice and comment period, to respond to the assertion that it lacks jurisdiction.” The FCC issued its Notice and Request for Comments on the ETC Petition of Leech Lake on December 12, 2013, with a reply comment date of January 29, 2014.¹⁶ The FCC’s docket disclosed that no comments were submitted from any party.

Decl.”), Ex. A. On April 26, 2016, the MPUC responded, acknowledging that “all such issues” associated with the LLTC request for ETC designation will be addressed by the FCC. *Id.*, Ex. B. Therefore, the MPUC concedes the FCC’s jurisdiction to make an ETC Designation for the LLTC.

Even though the states play a unique, important role in ETC designations, this Commission has repeatedly asserted its role to do so with respect to tribal entities. In the past few years the FCC has exerted jurisdiction to designate an ETC where tribal carriers sought ETC status.¹⁷ Nothing in this case requires a different result.

Further, well-settled principles of Indian Law establish the LLBO is a sovereign, tribal nation not subject to state commission jurisdiction. This sovereignty was conferred by the Chippewa Treaty of February 22, 1855 (10 Stat. 1165). Federal treaties are the “supreme law of the land.” U.S. Const. Art. VI. Courts, including the Supreme Court, have guarded tribal authority over its jurisdiction, including over economic affairs.¹⁸

In 2009, the LLBO based its Utility Service and Rights-of-Way Trespass Ordinance in Title 14 of its code on its treaty rights (Fineday Decl., Ex. 2). In Title 14, § 1.02 (now § 14.0101), the LLBO established the LLTUC for the regulation of utilities serving the Reservation. The FCC has found that Tribes possess the authority to regulate telecommunications services on tribal land¹⁹, and the LLBO has clearly exercised it with respect to the LLTC.

¹⁷ See *Designation of Hopi Telecommunications, Inc., as an Eligible Telecommunications Carrier for the Hopi Reservation*, Memorandum and Order, CC Docket No. 96-45 (2007). *Designation of Fort Mojave Telecommunications, Inc., Gila River Telecommunications, Inc., San Carlos Telecommunications, Inc., and Tohono O’Odham Utility Authority as Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, Memorandum Opinion and Order, 13 FCC Rcd 4547 (1998). *Designation of Standing Rock Telecommunications, Inc.*, WC Docket 09-197 (2011) (FCC 11-102); *Designation of NTUA Wireless as an Eligible Telecommunications Carrier*, WC Docket No. 09-197, WT Docket No. 10-208 (2014) (DA 14-200).

¹⁸ *Williams v. Lee*, 358 U.S. 217, 223 (1959).

¹⁹ See *In the Matter of Western Wireless Corporation*, 16 FCC Rcd. 18145 (F.C.C. 2001).

In addition, enactment of Title 14 and creation of the LLTC demonstrates the LLBO's significant interest in a matter of great economic significance to its members – the provision of utility service.

Pursuant to the Minnesota Chippewa Tribe Constitution, LLBO has the right “to engage in any business that will further the economic well-being of members of the Reservation.”²⁰ Under the LLBO's Constitution, the LLBO has jurisdiction over “all territory within the Leech Lake Indian Reservation boundaries.” LLBO has a significant tribal interest in promoting expansion of utilities on the Reservation, including telecommunications services through the LLTC.

Based upon the above, the FCC can, and should, conclude that it has the jurisdiction to approve LLTC's petition for ETC status as soon as possible. In the *Twelfth Report and Order*, the FCC said that it would decide the merits of an ETC request within six months of resolution of the jurisdictional issue. That issue effectively has been resolved. This Amended Petition should be granted as quickly as possible. Resolution is long overdue.

IV. LLTC MEETS THE STATUTORY AND REGULATORY PREREQUISITES FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER ON THE RESERVATION

LLTC satisfies each of the statutory and regulatory prerequisites set forth in the Act and the rules and orders of the Commission to be designated as an ETC, for the purpose of providing Lifeline and broadband services throughout its service area on the Reservation.

²⁰ See Revised Constitution and Bylaws of the Minnesota Chippewa Tribe, Minnesota (“LLBO Constitution”). The Minnesota Chippewa Tribe consists of the LLBO, along with the Chippewa Indians of the White Earth, Fond du Lac, Bois Forte (Nett Lake) and Grand Portage Reservations and the Nonremoval Mille Lac Band of Chippewa Indians.

A. LLTC is a Common Carrier.

LLTC currently provides services in Cass Lake and Bena and plans in the future to provide microwave broadband wireless service throughout its requested designated service area – the Reservation. Exhibit 12 (Fineday Decl.) is a map of the Reservation. As a broadband and voice communications provider, LLTC is regulated as a common carrier, and therefore meets the ETC requirement of being a common carrier.

B. LLTC Will Offer the Supported Services Through a Combination of Facilities-Based and (if necessary) Resale or Roaming.

LLTC currently provides the supported services in Cass Lake and Bena and plans in the future to provide the supported services specified in Section 54.101(a) of the Commission’s Rules, as described herein, throughout the Reservation with LLTC’s facilities, including a microwave network infrastructure as described in Exhibit 7, Fineday Decl.

C. LLTC Will Offer all of the Services and Functionalities Supported by the Universal Service Program.

To be designated an ETC, an Applicant must certify that it will provide each of the supported services. LLTC affirmatively certifies that it will provide each of the supported services. The Fineday Declaration is a sworn declaration that LLTC offers or will offer each of the services designated for support throughout the ETC designated service area.²¹

1. Voice Grade Access to the Public Switched Telephone Network.

LLTC will offer customers voice grade access to the Public Switched Telephone Network as required by Section 54.101(a)(1) of the Commission’s Rules. “Voice grade access” permits a telecommunications user to transmit voice communications, including signaling the network that the caller wishes to place a call, and receive voice communications, including receiving a signal that there is an incoming call. LLTC will provide its customers “voice grade access” by

²¹ 47 C.F.R. §§ 54.101 and 54.202.

providing traditional dial-tone and by enabling such customers to make and receive calls on the Public Switched Telephone Network.

2. *Broadband Internet Access.*

LLTC will offer fixed wireless broadband access at speeds of 10/1 Mbps with an unlimited data usage allowance.

3. *Local Usage.*

LLTC services currently include local and long distance usage that allows customers to originate and terminate calls within the United States calling area without incurring toll charges for a flat fee of \$50 per month, which would apply to customers in areas where the LLTC hopes to serve.

4. *Access to Emergency Services.*

“Access to emergency services” includes access to services, such as 911 and enhanced 911 (“E-911”), provided by local governments or other public safety organizations. LLTC currently provides its customers with access that is capable of delivering automatic numbering information (“ANI”) and automatic location information (“ALI”) over its existing network to PSAPs that are capable of receiving and processing such information in satisfaction with applicable state and federal E-911 requirements. LLTC would also provide this capability to future customers.

5. *Toll Limitation.*

Section 54.401(a)(2) of the Commission’s rules, as revised by the Lifeline Reform Order, provides that toll limitation service is not necessary for any Lifeline service that does not distinguish between toll and non-toll calls in the pricing of the service. LLTC’s flat fee package offering does not distinguish between local and toll calls at the point of dialing, and there is no additional charge within its plans for any call that would otherwise be considered a toll call.

D. LLTC Will Advertise the Availability of and Charges For its Universal Service Offerings.

In accordance with Section 214(e)(1)(B) of the Act and Section 54.201(d)(2) of the Commission's Rules, LLTC commits to continued advertising of the availability of, and charges for, Lifeline service throughout the Reservation. As stated in Section II. D., LLTC commits to an outreach effort that will better reach tribal members than the incumbent providers. A link on the Band's website, www.llojibwe.org will advertise the LLTC and its services. Since many potential users reside in relatively remote communities, access to generally recognized electronic and print media is severely limited. The methods of advertising may include local and tribal newspapers (e.g., the *DeBahJiMon* with a circulation of 4300); notices on the LLBO website; social media, radio announcements on tribal radio (e.g., KOJB 90.1 The Eagle), which broadcasts throughout tribal lands; notices in tribal offices and public benefits offices; electronic newsletters; billing inserts; publicity at Local Indian Council monthly meetings; and public exhibits. LLTC will publicize the availability of supported services to reach all of the residents in its service area and ensure that customers are aware of the available supported services, particularly, to low income customers. LLTC commits to explaining in its marketing that Lifeline Service is a government benefit, that the individual must be eligible to receive that benefit, and that the consumer may receive only one Lifeline benefit at a time. *See* 47 C.F.R. 54.405.

E. LLTC Will Offer Supported Services Through its Own Facilities.

Section 214(e) (6) of the Act and Section 54.201(d) (1) of the Commission's Rules require LLTC to offer the supported services either using its own facilities or a combination of its own facilities and resale of another carrier's services. LLTC currently uses its own facilities

to provide the supported services and plans to do so in the future when it constructs facilities capable of serving the whole Reservation.

**V. LLTC REQUESTS DESIGNATION THROUGHOUT ITS
SERVICE AREA WITHIN THE BOUNDARIES
OF THE LLBO RESERVATION**

Even though LLTC currently only serves Cass Lake and Bena, LLTC seeks ETC designation for all the areas within the boundaries of the Leech Lake Reservation, which includes segments of four counties within its borders—Beltrami, Cass, Hubbard and Itasca Counties (“Study Area”). As discussed herein, the LLTC plans to provide service throughout the Reservation in the near future, and ETC designation will assist its efforts to obtain funding for this effort. The proposed service area is 838,342 acres and is largely composed of the Chippewa National Forest and large bodies of water (i.e., Leech Lake, Winnibigoshish Lake, and Cass Lake).

The proposed study area is remote, wooded, and is home to the Band’s anchor institutions, community centers, clinics, and remote police stations in the Reservation’s 35 Civil Townships, 10 Cities, and 6 Unorganized Territories. This Commission has ruled that a Tribal ETC’s service area can be its Reservation area without the need to redefine the study areas of the rural telephone companies serving parts of the Reservation.²² In the *Standing Rock Reconsideration MO&O*, the Commission concluded, “we define the ‘community’ here as the population of the Reservation and designate Standing Rock’s service area to be the entire Reservation so that it can serve its entire community.”²³

²² *Standing Rock Telecommunications, Inc. Petition for Designation as an Eligible Telecommunications Carrier*, Memorandum Opinion and Order on Reconsideration, 26 FCC Rcd 9160, 1123 (2011) (“*Standing Rock Reconsideration MO&O*”).

²³ *Id.* at ¶14.

A. LLTC Will Satisfy Its Additional Obligations As An ETC.

In addition to those requirements set forth in Section 54.201 of the Commission's Rules, LLTC will satisfy other ETC requirements adopted by the Commission.

1. Commitment to Comply With Applicable Service Requirements [47 C.F.R. § 54.202(a)(1)(i)].

LLTC certifies that it does provide, and will continue to provide, voice telephone service and broadband access using its standard customer equipment (handsets/wireless devices) throughout the Reservation. This service will meet the requirements of 47 CFR § 54.101 discussed in Section III, including voice grade access, local service, broadband access and access to emergency services.

2. Service Improvement Plan [47 C.F.R. § 54.202(a)(1)(ii)].

LLTC's five-year service improvement plan (Fineday Decl., Ex.13) satisfies the ETC designation requirements and constitutes a good faith estimate of the universal service benefits, including expanded coverage and service quality, which the residents of LLBO Reservation will enjoy if LLTC is designated an ETC for the requested service area.

LLTC certifies that it will comply with the service requirements applicable to the support it receives. LLTC also certifies that it is familiar, and will comply, with the minimum coverage requirements, build-out requirements and reporting obligations.

3. Ability to Remain Functional in an Emergency [47 C.F.R. § 54.202(a)(2)].

LLTC is a facilities-based wireless telecommunications carrier with its own switching, transport, towers, and associated telecommunications facilities in the proposed designated ETC service area. LLTC will be able to function in emergency situations as set forth in 47 CFR § 54.201(a)(2). As Paragraph 9 (Fineday Decl.) states, the LLTC has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic

around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.

4. *Satisfaction of Applicable Consumer Protection and Service Quality Standards [47 C.F.R. § 54.202(a)(3)].*

Pursuant to 47 C.F.R. § 54.202(a)(3), an ETC applicant is required to demonstrate that it will satisfy applicable consumer protection and service quality standards. In this regard, LLTC commits that it will comply with the CTIA Consumer Code for Wireless Service. (Fineday Decl. ¶ 12).

5. *Financial and Technical Capability to Provide Lifeline Service [47 C.F.R. § 54.202(a) (4)].*

As described in this amended petition, LLTC is an LLC that is wholly owned by the LLBO, which has the financial and technical capability to provide Lifeline service. As demonstrated in Exhibits 13 and 14 (Fineday Decl.) LLTC has staff with sufficient technical capacity to operate LLTC's network at the current time. LLTC has been providing telecommunications services in part of the Reservation (Cass Lake and Bena) since 2015. Further, LLTC also certifies that it is financially and technically qualified to provide, and intends to provide, broadband services meeting the Commission's requirements. While LLTC is a small telecommunications company, it has demonstrated that it can provide service and will take measures to ensure that it will continue to do so as it expands its operations to cover the rest of the LLBO Reservation.

6. *Service Plan Terms and Conditions [47 C.F.R. § 54.202(a) (5), 54.401(d)].*

LLTC service plan of a flat \$50 monthly fee is specifically designed to meet the needs of Tribal customers residing on the Reservation. With Lifeline support of \$34.25, LLTC's subscribers would pay \$15.75 per month, which makes basic and advanced telecommunications service very affordable. LLTC would waive the \$15.75 for very low income subscribers and

provide necessary broadband to the most disadvantaged citizens. Given the Band's high unemployment rate and poverty level, affordability is a critical barrier to technology adoption rates on the Reservation. Therefore, with an ETC designation LLTC will be able to help its customers receive necessary Lifeline support.

7. *Tribal Notice [47 C.F.R. § 54.202(c)].*

Because LLTC is wholly owned by the LLBO, LLTC has consulted closely with the LLTUC and Tribal Council on LLTC's efforts to provide telecommunications services on the Reservation, including in its efforts to pursue ETC designation with the Commission. LLTC will continue to coordinate with them and will provide them a public copy of this Amendment to Petition.²⁴ (Fineday Decl., ¶ 28).

8. *Service Initiation Deposits [47 C.F.R. § 54.401(c)].*

LLTC does not, and will not, collect service deposits for its plans and will not do so for Lifeline accounts.

9. *Number-Portability Charges [47 C.F.R. § 54.401(e)].*

LLTC does not, and will not, charge a number-portability fee and will not do so for Lifeline accounts.

10. *Lifeline Certification and Verification [47 C.F.R. § 54.410].*

LLTC will certify and verify consumer eligibility of customers to participate in the Lifeline and Link-Up programs in accordance with 47 C.F.R. § 54.409, .410. Pursuant to the recent Lifeline Reform Order, once the National Lifeline Eligibility Verifier is deployed and covers Minnesota, LLTC will rely on that third-party administrator. However, it is more likely

²⁴ 47 C.F.R. §202(c) (providing that a "common carrier seeking designation as an eligible telecommunications carrier under section 214(e)(6) for any part of Tribal lands shall provide a copy of its petition to the affected tribal government and tribal regulatory authority, as applicable, . . .").

that LLTC will be responsible for the initial determination and annual recertification of consumer eligibility and LLTC will follow the procedures set forth below.

a. Initial and Annual Certification

Consumers will be able to sign up for Lifeline in person, through a toll-free telephone number on the LLTC website, which will provide information regarding LLTC's service plans, including a detailed description of the program and eligibility criteria. LLTC will provide Lifeline-specific training to all staff, whether employees, agents or representatives, who interact with actual or prospective consumers with respect to obtaining, changing or terminating Lifeline services.

LLTC's initial and annual certification forms will conform to the list of requirements provided in 47 CFR § 54.410(d), as amended (Fineday Decl., Ex. 16). Because the LLTC will serve on Tribal lands, its forms will include the Tribal-specific federal assistance programs listed in 47 C.F.R. §54.409(b).

LLTC will take measures to ensure that Lifeline is limited to a single subscription per household, defined as "any individual or group of individuals who are living together at the same address."²⁵ Applicants must provide permanent residential address information to the LLTC, and update that address as necessary. Applicants must complete and submit to LLTC USAC's one-per-household template form. After receiving this form, LLTC will query the National Lifeline Accountability Database to verify that the applicant is eligible for Lifeline.²⁶ LLTC will not seek or receive Lifeline reimbursement unless the applicant has certified that no one else in his or her household is currently receiving a Lifeline service.

²⁵ 47 CFR § 54.410 (d)(1)(iii).

²⁶ 47 C.F.R. §54.404(b).

LLTC will verify applicant eligibility by requiring the applicant to provide proof of participation in one of the Lifeline eligible programs or proof that his or her annual household income is at or below 135% of the federal poverty guidelines. This proof must be provided at the time of sign-up either in-person when signing up at a LLTC facility or by mailing in or faxing this proof when signing up over the phone or on the website. Eligibility Documents containing proof of eligibility will be returned to the customer after review.

Upon receipt of copies of the applicant's proof documentation, LLTC staff will complete the eligibility verification process and deliver service to eligible customers.

By December 31 of each year, LLTC will re-certify the continued eligibility of all its subscribers by contacting them – either in person, in writing, by phone, by text message, by email, or otherwise through the Internet – to confirm their continued eligibility.²⁷ Written notice of impending service termination will be sent to subscribers who do not respond to the annual re-certification request within 30 days. Alternatively, if a database containing subscriber eligibility data is available, LLTC will query the database by the end of each year to re-certify eligibility and the date of re-certification.

LLTC will submit an annual, Lifeline-eligible, telecommunications carrier certification form pursuant to 47 C.F.R. § 54.416.

B. Benefits of LLTC Serving the Communications Needs of the LLBO.

Pursuant to 47 U.S.C. § 214(e) (6), the Commission must determine whether granting this Petition is in the public interest. Designating LLTC as an ETC will serve the public interest. First, this designation will provide access to federal support to LLTC's current customers. Second, it will help LLTC to improve mobile voice and broadband coverage in the Reservation.

²⁷ See *id.*

In 2014 the FCC eloquently stated why granting ETC status to a tribal carrier serving tribal lands was in the public interest when granting ETC status to NTUA Wireless, LLC to serve the Navajo nation:

The Federal Communications Commission (FCC or Commission) shares an historic federal trust relationship with federally recognized Tribal Nations, has a longstanding policy of promoting Tribal self-sufficiency and economic development, and has a record of helping ensure that Tribal Nations have adequate access to communications services. Tribal governments play a vital role in serving the needs and interests of their local communities, often in remote, low-income, and underserved regions of the country. Owning and operating critical communications infrastructure empowers Tribal Nations to protect the health and safety of consumers living on Tribal lands, to spur local economic development, to preserve Tribal language and culture, and to further the education of residents through federal distance education programs. Given the difficulties faced in these remote, underserved Tribal lands, the Bureaus recognize the importance of universal service support to providing services to the residents of this Tribal Nation.²⁸

Here, the LLTC, wholly owned by the LLBO, plays a vital role in bringing desperately needed services to this rural, underserved community. Distance learning and other educational benefits, as well as access to necessary health and social services, are further positive byproducts of broadband access.

The LLBO outlined the economic development benefits anticipated by the ubiquitous presence of broadband on the Reservation (Fineday Decl., Ex. 7).

Denying the public interest in widespread internet access would be like denying the public interest in clean, safe water. It is now a well-accepted fact of life in 2017 that broadband access is as much a public utility as electricity or water. Therefore, the public interest would be well-served by enabling a provider to bring broadband access to an area that other providers have

²⁸ Designation of NTUA Wireless as an Eligible Telecommunications Carrier, WC Docket No. 09-197, WT Docket No. 10-208 ¶2 (2014) (DA 14-200).

shunned. This can be accomplished by granting the Petition to allow a wireless provider, with a dedicated interest in serving tribal lands, to provide a viable alternative to the disinterested established carriers for Reservation residents.

Customer choice, enhanced competition and improved service quality are other possible outcomes that flow from authorizing a new provider to serve the Reservation. The benefits of competition are widely recognized and extend to all markets, including the universal service market, as recognized by the FCC.

We note that an important goal of the Act is to open local telecommunications markets to competition. Designation of competitive ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer choice, innovative services, and new technologies. We agree with Western Wireless that competition will result not only in the deployment of new facilities and technologies but will also provide an incentive to the incumbent rural telephone companies to improve their existing network to remain competitive, resulting in improved service to Wyoming consumers [consumers in the proposed ETC service area]. In addition, we find that the provision of competitive service will facilitate universal service to the benefit of consumers in Wyoming by creating incentives to ensure that quality services are available at just, reasonable, and affordable rates.²⁹

Consumers increasingly rely on wireless services for their telecommunications needs. LLTC's designation as an ETC will cause these consumers to have greater access to wireless telecommunications services in rural areas, thereby advancing the basic goal of preserving and advancing universal service. *See* 47 U.S.C. §254(b). In rural areas, the universal service goal is clear.

Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunica-

²⁹ *In the Matter of the Federal-State Joint Board on Universal Service, Western Wireless Corp. Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, CC Docket No. 96-45, Memorandum Opinion and Order, DA. 00-2896, ¶ 17 (rel. Dec. 26, 2000).

tions and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

47 U.S.C. § 254(b) (3). To accomplish this goal, a competitive universal service framework has been established with consumers benefiting from competing carriers vying for their business based upon price, service offerings, coverage, and service quality. LLTC, as a tribal carrier is uniquely positioned to serve the wireless needs of consumers in the Reservation.

VI. THE FCC SHOULD APPROVE THIS PETITION AS SOON AS POSSIBLE

The FCC's order on reconsideration of the *Twelfth Report and Order*³⁰ noted that it has acted "expeditiously" on all ETC requests filed since the release of the *Twelfth Report and Order*.³¹ The LLTC's request has been pending for three years with no word from this Commission. As explained in Sec. II, the MPUC defers to the FCC for action on this amended petition, so no jurisdictional issue remains. Therefore, the LLTC respectfully requests expeditious resolution of its ETC Petition.

VII. ANTI-DRUG ABUSE ACT CERTIFICATION

LLTC certifies that no party to this petition is subject to a denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

VIII. CERTIFICATION OF GOOD STANDING

LLTC was granted its charter on June 21, 2013. LLTC is operated under the laws of the LLBO as a tribally-owned entity of the Band and continues to operate in good standing through the date of this Amended Petition.

³⁰ *Twenty-Fifth Order on Reconsideration, Report and Order, Order, and Further Notice of Proposed Rulemaking*, 18 FCC Rcd 10958 (2003) ¶ 27.


³¹ *Id.*

IX. CONCLUSION

LLTC meets the requirements set forth by the Commission to be designated as an ETC pursuant to Section 214(e) (6) of the Communications Act. Accordingly, LLTC respectfully requests that the Commission designate LLTC as an ETC in order to provide basic and advanced telecommunications services within the LLBO Reservation.

Dated: June 7, 2017

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I, Sally Fineday, hereby certify that the facts and representations stated herein are true and correct to the best of my knowledge this 6 day of June, 2017 under penalty of perjury of the laws of the State of Minnesota..



Sally Fineday
LLTC Business Manager

GSB:7327971.3